

BC 399-00 Scurto, Dwayne  
VAR 00-07

MSA\_S-1829-917

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count  
8/17/00

Judge John C. North, II  
Chairman



Ren Serey  
Executive Director

**STATE OF MARYLAND  
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

1804 West Street, Suite 100, Annapolis, Maryland 21401  
(410) 260-3460 Fax: (410) 974-5338

August 17, 2000

Mr. Keith Kelley  
Baltimore County - DEPRM  
County Courts Building  
401 Bosley Avenue  
Baltimore, Maryland 21204

Re: Dwayne Scurto  
Local Number 00-07

Dear Mr. Kelley:

Thank you for forwarding the above-referenced variance request to permit a single family dwelling in the 100-foot Buffer. It appears a single family dwelling could be accommodated outside the 100-foot Buffer notwithstanding side-yard setbacks. However, if the County finds a variance to the 100-foot Buffer requirement is more appropriate in this case, then we recommend mitigation of native species at a 3:1 ratio be provided for new disturbance to the 100-foot Buffer. Mitigation should first occur within the 100-foot Buffer.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case.

Sincerely,

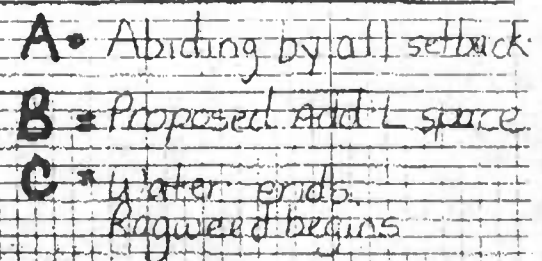
A handwritten signature in cursive script, reading "Lisa A. Hoerger".

Lisa A. Hoerger  
Natural Resources Planner

cc: BC 399-00

Branch Office: 31 Creamery Lane, Easton, MD 21601  
(410) 822-9047 Fax: (410) 820-5093

TTY FOR DEAF ANNAPOLIS-974-2609 D.C. METRO-586-0450



Wanda Lynn Wayne Smith

*Regina's copy*



Baltimore County  
Department of Environmental Protection  
and Resource Management

Office of the Director  
401 Bosley Avenue, Suite 416  
Towson, Maryland 21204

**RECEIVED**

SEP 15 2000

CHESAPEAKE BAY  
CRITICAL AREA COMMISSION

September 12, 2000

Mr. Dwayne Scurto  
Ms. Ronda Diven  
2809 12<sup>th</sup> Street  
Baltimore, MD 21219

Re: 7320 Geise Avenue  
Critical Area Administrative Variance

Dear Mr. Scurto and Ms. Diven:

The Department of Environmental Protection and Resource Management (DEPRM) has received your variance request to construct a single family dwelling in the 100 foot tidal buffer to Jones Creek. The Director of DEPRM may grant a variance to the Chesapeake Bay Critical Area regulations in accordance with regulations adopted by the Critical Area Commission concerning variances as set forth in COMAR 27.01.11. There are five (5) criteria listed in COMAR 27.01.11 that shall be used to evaluate the variance request. All five (5) of the criteria must be met in order to approve the variance.

The first criterion requires that special conditions exist that are peculiar to the land or structure, and that literal enforcement of the regulations would result in unwarranted hardship. A significant portion of the lot is in the 100 foot buffer. A literal enforcement of the regulations would prevent the construction of the proposed dwelling, resulting in unwarranted hardship.

The second criterion requires that a literal enforcement of the regulations would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area. Many of the older properties along the Chesapeake Bay waterfront have homes within the 100 foot tidal buffer. A similar variance would be granted on another waterfront lot under similar circumstances.

The third criterion requires that granting of a variance will not confer upon an applicant any special privilege that would be denied to other lands or structures within the Critical Area. Granting of this variance will not confer upon an applicant any special privilege that would be denied to other lands or structures within the Critical Area.

The fourth criterion requires that a variance is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from

Mr. Dwayne Scurto  
Ms. Ronda Diven  
September 12, 2000  
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any condition relating to land or building use, either permitted or non-conforming, on any neighboring property. This variance is not based upon conditions or circumstances which are the result of your actions.

The fifth criterion requires that granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area regulations. With mitigation, granting of the variance will not adversely affect water quality, or adversely impact fish, wildlife, or plant habitat.

Based upon our review, it is this Department's findings that the first four of the above criteria have been met, and that the fifth criterion can be met by planting 5-6 foot tall native deciduous trees within the 100 foot buffer. Therefore, the requested variance is hereby approved in accordance with Section 26-445(c) of the Baltimore County Code with the following conditions:

1. The attached "Notice of Granting of Variance" must be published in The Avenue, Dundalk Eagle or The East County Times. Final variance approval cannot be granted until fifteen (15) calendar days after the notice has been published. A copy of the Certificate of Publication for the advertisement issued by the newspaper, or a copy of the advertisement from the paper must be submitted to this office prior to receiving final variance approval.
2. Mitigation for the proposed structure shall consist of container-grown, native, deciduous trees, 5 to 6 feet in height from the enclosed list. The mitigation rate is 3 trees for every 100 square feet of new impervious surface and 1 tree for every 100 square feet of new pervious surface placed in the 100 foot buffer. A fee-in-lieu of planting at a rate of \$1.20 per square foot for an impervious surface and \$0.40 per square foot for an pervious surface of required mitigation will be considered when all or part of the required mitigation cannot be met on site. Any fee-in-lieu payment must be made prior to release of the building permit. Any tree plantings must be completed prior to release of the Use & Occupancy certificate. The exact amount of mitigation will be determined at the time of building permit application submittal.
3. Rooftop runoff must be directed across a pervious area such as lawn to encourage maximum infiltration.
4. The sum of all man-made impervious surfaces shall not exceed 25% of the property.

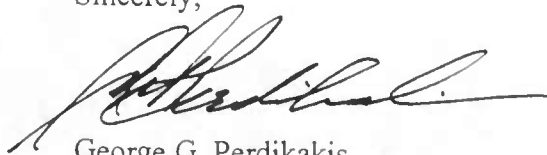
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It is the intent of this Department to approve this variance subject to the above conditions. Changes in site layout may require submittal of revised plans and an amended variance request.

Please sign the statement below and then return a copy of the letter along with your Certificate of Publication to this Department c/o Ms. Patricia Farr of Environmental Impact Review. Failure to return a signed copy of this letter and the other item may result in delays in processing of permits or other development plans for the subject property, and/or may render this variance null and void.

If you have questions regarding this project, please contact Mr. Keith Kelley at (410) 887-3980.

Sincerely,



George G. Perdikakis  
Director

GGP/kk

cc: Ms. Regina Esslinger, CBCA Commission  
Ms. Patricia Farr

attachment

I/We have read and agree to implement the above requirements to bring my/our property into compliance with Chesapeake Bay Critical Area regulations.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

J:\Keith\diven

**BALTIMORE COUNTY**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE**  
**MANAGEMENT**

**NOTICE OF GRANTING OF VARIANCE**

**ADDRESS:** 7320 Geise Avenue

**LEGAL OWNER:** Dwayne Scurto and Ronda Diven

The Baltimore County Department of Environmental Protection and Resource Management, pursuant to Section 26-445(c) of the Baltimore County Code, hereby gives notice that a variance from Section 26-449 of the Code, Chesapeake Bay Critical Area Requirements, will be granted for the purpose of constructing a single family dwelling within the 100 foot buffer to Jones Creek on the referenced property. Any person or persons, jointly or severally, or any taxpayer aggrieved or feeling aggrieved by this decision, may appeal to the Baltimore County Board of Appeals within forty-five (45) days from the date of this notice. Appeals must be made in writing, stating the reason for appeal, and must be mailed to Environmental Impact Review, Baltimore County Department of Environmental Protection and Resource Management, 401 Bosley Avenue, Suite 416, Towson, Maryland 21204. All appeals must be accompanied by a check for \$75.00 payable to Baltimore County Government.